

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 6427 of 2007

1. Subhash Vinayak Deshpande
and others ..Petitioners

vs.

1. Ravindra Prabhakar Deshpande
and others ..Respondents

Shri A.B.Tajane for petitioners.
Shri Sandeep Salunkhe for respondent no.1.

CORAM: S.C.DHARMADHIKARI J.
21st NOVEMBER, 2007

P.C.

1. After hearing Shri Tajane at length, I see no reason to interfere with the order of the Trial Court permitting the original plaintiff to delete/abandon a part of claim, with regard to survey no.159. However, Trial Court to decide the suit on its own merits and in accordance with law bearing in mind the fact that the plaintiffs had earlier made a claim with regard to this survey number and and sought reliefs on that basis.

2. In the peculiar facts of this case it is not necessary to make a reference to the decision reported in 2006 (Supp) Bom.C.R. 718 in the case of Rajaram Jairam Raut Vs. Baliram Laxman Raut.

In any event that decision is distinguishable on facts. Petition is dismissed. However, in case a fresh suit is filed laying a claim to this land, the petitioners are at liberty to apply and urge that records and evidence in the earlier suit be called for and relied upon. All pleas in that behalf are kept open.

(S.C.DHARMADHIKARI J.)